

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
MARCH 8, 2017**

**CALL TO
ORDER
6:01 pm**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at the South Campus Building, 40 11th Street W, Ste. 200, Kalispell, Montana. Board members present were, Rita Hall, Sandra Nogal, Dean Sirucek, Ron Schlegel, Jim Heim, Jeff Larsen, Kevin Lake, and Mike Horn. Greg Stevens had an excused absence. Mark Mussman represented the Flathead County Planning & Zoning Office.

There were approximately 33 people in the audience.

**APPROVAL OF
MEETING
MINUTES
6:02 pm**

Nogal made a motion, seconded by Sirucek to approve the February 8, 2017 meeting minutes.

**BOARD
DISCUSSION
6:02 pm**

Hall stated she would have liked more detail regarding how the Northwest Montana Association of Realtors became involved with this text amendment.

**ASK THE
QUESTION
6:02 PM**

Larsen asked the question.

**ROLL CALL TO
APPROVE
MEETING
MINUTES
6:02 pm**

On a roll call vote the motion passed 7-1 with Lake abstaining as he was not present for the meeting.

**PUBLIC
COMMENT
(not related to
agenda items)
6:03 pm**

None

**NMAR TEXT
AMND (VRBO)
(FZTA-16-04)
6:04 pm**

A request from the Northwest Montana Association of Realtors to amend the text of the *Flathead County Zoning Regulations*. The applicants are requesting to add "Short-term Rental Housing as a conditional use in the following zones: AG-80, AG-40, AG-20, SAG-10, SAG-5, R-2.5, R-1, R-2, R-3, R-4, R-5, RC-1, RA-1, Little bitterroot Lake, West Valley, Rogers Lake, Ashley Lake,

Labrant/Lindsey Lane, North fork, and Lakeside. If the amendment is adopted, Short-term Rental Housing will be allowed in these districts with an approved Administrative Conditional Use Permit. The amendment further requests to add performance standards for short-term rental housing to Chapter 4 of the *Flathead County Zoning Regulations*. Short-term Rental Housing or vacation rentals will continue to be permitted uses in the following zones: BR-2, BR-4, and CVR.

STAFF REPORT
6:04 pm

Mussman went over the changes since the last meeting. He stated that the North Fork had been removed from this proposal also he had done some work on the occupancy standard and parking requirements.

BOARD
DISCUSSION
6:07 pm

Larsen asked about the definition of sleeping area under maximum occupancy.

Mussman stated that this may include a great room with sofa sleepers or bunkbeds that is not necessarily a bedroom.

Larsen stated he was concerned with the DEQ requirements of 40 gallons per day per person so a 3 bedroom house would be permitted for 350 gallons per day; if 9 people were in that house, it would go beyond that.

Mussman stated that with an Administrative Conditional Use Permit the maximum occupancy would be checked to the size of their existing drain field.

Larsen asked how the North Fork compared to Ashley Lake's neighborhood plan.

Mussman stated North Fork, as a permitted use, allows rental cabins. He read the definition of 'Guest Cabin' and 'Rental Cabin' under the North Fork Zoning Regulations.

The neighborhood plans involved only allow a single family dwelling.

Larsen stated that essentially if the zoning regulations do not say you can have something, then you cannot have it.

Schlegel wanted clarification of home occupation under other zoning districts specifically Little Bitterroot Lake which has home occupation as a permitted use.

Mussman clarified stating that short term rentals were not considered a home occupation as usually with short term rentals the home owner was not present.

Schlegel stated that if you live in the top and rent out the bottom

portion of your home then short term rentals would be legal.
This issue was discussed at length.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZTA-16-04)
6:11 pm**

Sirucek made a motion seconded by Nogal to adopt Staff Report FZTA-16-04 with the revised performance standards and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION
6:11 pm**

Heim stated last month he had recommended removing the 'with stay of 30 days or longer' from the definition of dwelling unit and he is no longer advocating that. He stated that after reading all the comments for and against, if he had to vote now he would vote no.

Hall stated she did not want to see a blanket county wide ruling. She felt that for this issue to be properly dealt with it should be dealt with through the neighborhood plans.

Larsen stated that right now short term rentals are not allowed in a zoning district and some of the districts do not have neighborhood plans.

Schlegel stated he had learned a lot from the last meeting and had done some research since that time. He talked about the 'Public Sleeping Accommodation Plan Review' under Montana State law stating that tourist homes (vacation rentals) are already allowed under Montana law. He also stated he contacted the Department of Revenue who stated they have three people that check on short term rentals to make sure they are paying the bed tax.

Mussman stated that Montana State does not have land use regulations in place which is what this text amendment is dealing with.

Schlegel felt that the guest house or home occupation would suffice for the land use requirements. He did not feel that a permit at the county level and at the state level should be required.

Wirtala-Northwest Montana Association of Realtors-stated there was a difference between land use and state permits which is

why we have zoning. She stated that even if you had a permit for a pig farm you could not have one in an R-1 zoning district. Also, there are some things in the text amendment that are not addressed in the State permit such as a 24 hour contact person. Wirtala stated that to simplify the application maximum occupancy could be stated as the capability of your septic. She spoke about giving the neighbors some level of comfort with the protection offered in the text amendment. Also, if a neighbor complains now, the person running the short term rental is shut down; with this text amendment it gives the home owner the option of bringing the rental into compliance and continuing operations.

Nogal stated she believed in a level playing field. She felt this text amendment protected the home owner as well as the neighbor.

Mussman stated that currently the planning office has to sign off on public accommodation license requests for tourist homes and if the property is in a zoned area the planning office cannot sign off on it as it would be an illegal use.

Sirucek stated he felt this amendment was a protection for the neighbors giving them an avenue to deal with a bad situation other than going to court.

Larsen stated that right now in the zoning districts this use is not allowed, typically in the past the zoning interpretation has been if it does not say you can do it as a permitted use or a conditional use you cannot do it. The first thing the Board has to answer is do we allow this use in zoned areas, and if so, how much do we regulate it.

**ASK THE
QUESTION
7:05 pm**

Larsen asked the question.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZTA-16-04)
7:05 pm**

On a roll call vote the motion failed 4-4 with Sirucek, Nogal, Larsen and Lake voting yes and Schlegel, Horn, Hall and Heim voting no.

**PATTY SEAMAN
HOMES**

A zone change request by Michael V. Seaman and Garry D. Seaman in the Evergreen Zoning District. The proposal would

(FZC-16-18)
7:06 pm change the zoning on parcels containing approximately 34.09 acres from *R-1 (Suburban Residential)* and *R-3 (One Family Residential)* to *R-4 (Two Family Residential)*. The subject properties are located at 74 West Evergreen Drive.

STAFF REPORT
7:06 pm Mussman reviewed Staff Report FZC-16-18 for the Board.

BOARD
QUESTIONS
7:08 pm None

APPLICANT
PRESENTATION
7:08 pm Eric Mulcahy-Sands Surveying, 2 Village Loop, Kalispell stated he represented the applicant. The applicant has owned the property for 20+ years. It is one of the largest undeveloped lots on the east side of the river. The property is at the intersection of two county roads, adjacent to the school and served by Evergreen Sewer and Water. He stated Evergreen has developed over the past 20 years into a nice little community. The applicant is requesting R-4 which would allow both Class A and Class B manufactured homes. The applicant is in the mobile home business and would like to have a mobile home park on this property.

BOARD
QUESTIONS
7:14pm Larsen asked the difference between a Class A and a Class B manufactured home.

Mulcahy went over the definitions of both.

Sirucek asked for an approximate build out.

Mulcahy stated he thought around 100 units.

AGENCY
COMMENTS
7:16 pm None

PUBLIC
COMMENT
7:20 pm Ian Wargo-3095 Sweetgrass Lane, Kalispell – he read a couple of comments from neighbors that were unable to attend the hearing. They were concerned with traffic and overcrowding in the school. Wargo stated he was not opposed to development. This zone change would create an island of R-4 zoning amongst the neighborhood. He initially wasn't aware of the manufactured home component but stated that only added fuel to the fire. A

traffic impact study needs to be done. He talked about the amount of traffic that would be generated at full build out. He thought there would be additional traffic through his subdivision. He talked about pedestrian traffic and decrease in home values.

John Minnehan-46 W Evergreen, Kalispell – talked about the traffic in the neighborhood and the condition of West Evergreen and River Roads. He stated there are no sidewalks or bike paths. He is opposed to this zone change.

Joe McMaster-3215 Sweetgrass Lane, Kalispell – agreed with Wargo. He stated he is opposed this was not what they had envisioned for the area.

John Wiser-106 Parkside Drive, Kalispell – concerned about traffic on roads in his subdivision that are maintained by the subdivision. He was also concerned with the mobile home park lowering the value of his property.

Brian Farrell-3077 Sweetgrass Lane, Kalispell – was concerned with the density. It doesn't fit with what is already in the neighborhood. He is opposed to the zone change.

Mary Knotts-222 River Place, Kalispell – talked about the pristine environment along the Stillwater river. She is opposed to the zone change stating there were problems with traffic, children's safety, overcrowding the schools and home values. She was also concerned with how the density may impact the river.

**APPLICANT
REBUTTAL
7:30 pm**

Mulcahy stated he understood the issues raised by the public and they were issues that would be brought up in his office during the subdivision design. A traffic impact study would be done during the subdivision review to address traffic and pedestrian access. He provided a letter from Evergreen Water and Sewer stating they could provide service. The generation is 0.33 school age children in the County not 2.4. He talked about a greenbelt area to mitigate density issues. Mulcahy stated that a mobile home park will always be in someone's backyard.

**BOARD
QUESTIONS
7:46 pm**

None

**STAFF
REBUTTAL
7:46 pm**

None

**BOARD
QUESTIONS
7:46pm**

None

**MAIN MOTION
TO ADOPT
F.O.F.
(FZC-16-18)
7:47 pm**

Sirucek made a motion seconded by Schlegel to adopt Staff Report FZC-16-18 as Findings of Fact.

**BOARD
DISCUSSION
7:47 pm**

None

**ASK THE
QUESTION
7:47 pm**

Sirucek asked the question.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-16-18)
7:47pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-16-18)
7:48 pm**

Heim made a motion seconded by Hall to adopt Staff Report FZC-16-18 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION
7:48 pm**

Schlegel asked why the applicant went with R-4 zoning versus R-3 zoning.

Mulcahy stated it was due to the permitted uses.

Hall stated she had wrestled with this. She would rather see a home on a permanent foundation where the people owned the land and the home, than a mobile home park where they owned the home but leased the land.

Sirucek asked if the owners would consider looking at two (2) types of development for this area where the southern portion

would be single residence and the northern portion the mobile home park. That may deal with several of the problems here.

Mulcahy stated there had been discussion on owner occupied lots. He stated that could be an option.

Larsen stated he understood the neighbors' concerns with their houses and single family houses. He asked what kinds of design options were available to buffer that.

Mulcahy stated that there could be a green belt design as a buffer, there is already a path the kids have beaten along the edge of the Seaman property, a trail could connect the greenbelt to the school so kids would not have to use the road.

Heim talked about living in a mobile home. He talked about the need for affordable housing. He was concerned about the density and the traffic.

Lake stated the density could be addressed at the subdivision level.

Schlegel stated the Board was just voting on the zone change not the subdivision. The applicant would have to bring the subdivision on a separate application, at that time they could protect the neighbors.

Nogal stated that we may not be the people making the decision when it comes back as a subdivision.

Larsen stated that he had worked on the Growth Policy for several years and one of the goals was to encourage affordable homeownership in Flathead County and to encourage mobile home parks as a form of affordable homeownership in areas with access to public sewer and water. Mobile home parks can be done in a nice way and it can be conditioned to protect the neighbors and pedestrian access. He doesn't know how to provide affordable homes if can't provide mobile homes. He talked about need for affordable homes. He talked about the subdivision requirements and the things he would like to see if the subdivision comes forward. He felt the zone change would allow for some flexibility in providing some affordable housing.

Hall agreed with the need for affordable housing.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-16-18)
8:06 pm**

On a roll call vote the motion passed on a 6-2 vote with Hall and Nogal voting no.

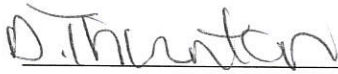
OLD BUSINESS None
8:06 pm

NEW BUSINESS None
8:06 pm

ADJOURNMENT The meeting was adjourned at approximately 8:07 pm on a
8:07 pm motion by Schlegel. The next meeting will be held on April 12,
2017 at 6:00 pm.



Jeff Larson, Chairman



Danene Thornton, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 4/12/17